

EXHIBIT 59

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<div>Page 1</div> <div>UNITED STATES DISTRICT COURT DISTRICT OF MINNESOTA</div> <div>-----</div> <div>In Re: Bair Hugger Forced Air Warming Products Liability Litigation</div> <div>This Document Relates To: All Actions MDL No. 15-2666 (JNE/FLM)</div> <div>-----</div> <div>DEPOSITION OF DR. ANDREA KURZ VOLUME I, PAGES 1 - 235 JANUARY 12, 2017</div> <div>(The following is the deposition of DR. ANDREA KURZ, taken pursuant to Notice of Taking Deposition, via videotape, at the Cleveland Clinic, E Building, Conference Room E3-40B, 9105 Cedar Avenue, Cleveland, Ohio, commencing at approximately 10:11 o'clock a.m., January 12, 2017.)</div>	<div>Page 3</div> <div>I N D E X</div> <table><tr><th>EXHIBITS</th><th>DESCRIPTION</th><th>PAGE MARKED</th></tr><tr><td>Ex 237</td><td>Kurz curriculum vitae</td><td>7</td></tr><tr><td>238</td><td>Article, Departmental and Institutional Strategies for Reducing Fraud in Clinical Research, by Sessler, et al</td><td>27</td></tr><tr><td>239</td><td>E-mail string, 3MBH01534509</td><td>54</td></tr><tr><td>240</td><td>PowerPoint, LMA PerfecTemp vs. Forced-air Warming</td><td>78</td></tr><tr><td>241</td><td>Article, Effects of preoperative warming on the incidence of wound infection after clean surgery: a randomized controlled study, by Melling, et al</td><td>92</td></tr><tr><td>242</td><td>Article, PERIOPERATIVE NORMO- THERMIA TO REDUCE THE INCIDENCE OF SURGICAL-WOUND INFECTION AND SHORTEN HOSPITALIZATION, by Kurz, et al</td><td>99</td></tr><tr><td>243</td><td>Article, Intraoperative Core Temperature Patterns, Transfusion Requirement, and Hospital Duration in Patients Warmed with Forced Air, by Sun, et al</td><td>125</td></tr></table>	EXHIBITS	DESCRIPTION	PAGE MARKED	Ex 237	Kurz curriculum vitae	7	238	Article, Departmental and Institutional Strategies for Reducing Fraud in Clinical Research, by Sessler, et al	27	239	E-mail string, 3MBH01534509	54	240	PowerPoint, LMA PerfecTemp vs. Forced-air Warming	78	241	Article, Effects of preoperative warming on the incidence of wound infection after clean surgery: a randomized controlled study, by Melling, et al	92	242	Article, PERIOPERATIVE NORMO- THERMIA TO REDUCE THE INCIDENCE OF SURGICAL-WOUND INFECTION AND SHORTEN HOSPITALIZATION, by Kurz, et al	99	243	Article, Intraoperative Core Temperature Patterns, Transfusion Requirement, and Hospital Duration in Patients Warmed with Forced Air, by Sun, et al	125
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<p>1 is true either, because don't forget, it's a 2 retrospective study and not one of the best-done 3 either. So you -- 4 Q. Based on in today's standards. 5 A. Based on in today's standards. 6 Q. Okay. It might have been good standards 7 back in 1996. 8 A. There's no discussion about it because the 9 data would not have been available in '96. 10 Q. Okay. 11 A. So we still only have the old data. 12 Q. Okay. And Dr. Sessler has mentioned in an 13 e-mail before, in today's standards and with respect 14 to reliability of studies, that he probably wouldn't 15 have published the 1996 Kurz paper. Do you agree with 16 him? 17 A. Absolutely. 18 Q. Okay. 19 A. I would not have either. 20 Q. So without that paper meeting today's 21 standards, do you agree with me that there's no 22 scientific evidence today that active warming or 23 maintaining normothermia reduces the incidence of 24 infection? 25 A. If -- I mean if -- if you exclude the only</p>	<p>1 A. Very little. 2 Q. None; correct? 3 A. I'm not quite sure. I'm -- I'm still -- I'm 4 still debating about blood loss and other studies. 5 Q. Talking about infection. 6 A. Yeah. 7 Q. So I just want to get this clear for the 8 record. You agree with me that, in today's scientific 9 community, that there's no evidence, publishable 10 evidence that supports that maintaining normothermia 11 reduces infection rates. You agree with that 12 statement. 13 A. Still have problems with that statement. 14 Q. Do you want me to rephrase? 15 A. Yeah. Do that, please. 16 Q. In today's scientific standards, there is no 17 reliable evidence that supports that maintaining 18 normothermia reduces the incidence of infection. 19 A. That is correct. 20 Q. Thank you. 21 MR. ASSAAD: Take a break. I need to use 22 the restroom. 23 THE REPORTER: Off the record, please. 24 (Recess taken.) 25 BY MR. ASSAAD:</p>
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<p>1 paper that shows that, then there is no evidence. 2 Q. Well we discussed later there's only one 3 paper regarding infection rates; correct? 4 A. You could -- 5 You have a second one which you excluded: 6 the Melling paper. 7 Q. Well you couldn't tell me whether or not 8 that was intraoperative warming; correct? 9 MR. GORDON: Objection. 10 A. It doesn't matter. 11 Q. Okay. 12 A. It does not matter. We are talking about 13 maintenance of normothermia, -- 14 Q. Okay. 15 A. -- whether you warm the patients -- 16 Q. Do you think Melling was a good study? 17 A. It was an okay study for the time. 18 Q. Would you agree with me that that wouldn't 19 be publishable today? 20 A. I absolutely would agree with you. 21 Q. Okay. So sitting here today, what paper 22 that could -- that -- what evidence that could be 23 published today supports active warming in the -- in 24 the active warming and normothermia that reduces the 25 incidence of infection?</p>	<p>1 Q. Going -- going back to my last question: In 2 fact, as early as 2012 you notified 3M that the 3 current research guidelines for reliability and that 4 the previous studies were not done -- were done with 5 much -- I'm sorry. Rephrase. 6 Back in 2012 you notified 3M that, at the 7 KOL meeting in Washington, that the evidence for 8 hypothermia-related complications mostly does not meet 9 current research guidelines for reliability and that 10 previous studies were done with much larger 11 temperature differences than are currently allowed. 12 Do you recall saying that to 3M? 13 A. That is correct. 14 Q. Okay. And are you aware since that time 3M 15 has continued to cite your paper for its marketing 16 purposes with respect to its claim that forced-air 17 warming is a way to maintain normothermia, which 18 reduces the incidence of infection? 19 A. I agree with this. 20 Q. You agree that you're aware that mar -- that 21 they continue their marketing. 22 A. Yes. And I agree that they do that. I do 23 the same. 24 Q. Okay. And you've been requesting from them 25 since 2012, you and Dr. Sessler, to fund studies to --</p>

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